

**DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION OF
THE STATE OF MONTANA**

IN THE MATTER OF Joint Application
of Liberty Utilities Co., Liberty WWH,
Inc., Western Water Holdings, LLC, and
Mountain Water Company for
Approval of a Sale and Transfer of
Stock.

REGULATORY DIVISION
DOCKET NO. D2014.12.99

**THE CITY OF MISSOULA'S
DATA REQUESTS CITY-032 THROUGH CITY-102
TO JOINT APPLICANTS**

CITY-032 Regarding: Merger Agreement and financing
 Witnesses: John Kappes, Leigh Jordan, David Pasioka, Peter Eichler

Does Carlyle or any of its subsidiaries have any agreements or arrangements with Algonquin and or any of its subsidiaries that are related to this transaction but not written in the Merger Agreement? If so, please produce those agreements or arrangements.

CITY-033 Regarding: Merger Agreement and financing
 Witnesses: David Pasioka and Peter Eichler

Has Algonquin or any of its subsidiaries corresponded with Carlyle or any of its subsidiaries regarding the effect of the City's condemnation action, if successful, on the proposed merger that is the subject of this proceeding? If so, please describe that correspondence.

CITY-034 Regarding: Condition of the Water System
Witness: John Kappes and Leigh Jordan

John Kappes testified that the PSC “has recognized that service-related or system-related issues” are not relevant to the proposed sale and transfer of Mountain Water. (Kappes Test., 7:14-19.)

- a. Please explain the basis for this assertion and provide all documents or materials supporting that assertion.
- b. Were service-related or system-related issues, including the overall condition of the Water System, a factor in (1) Caryle’s decision to sell the Water System, (2) its marketing of the Water System, or (3) its evaluation of proposed purchase prices?

CITY-035 Regarding: Condition of the Water System
Witness: David Pasioka and Peter Eichler

John Kappes testified that the PSC “has recognized that service-related or system-related issues” are not relevant to the proposed sale and transfer of Mountain Water. (Kappes Test., 7:14-19.)

- a. Do you agree with this testimony? If so, please provide the basis for that agreement and any documents or materials supporting that opinion.
- b. Were service-related or system-related issues, including the overall condition of the Water System, a factor in (1) Algonquin/Liberty Utilities’ decision to purchase the Water System or (2) its proposed purchase price?

CITY-036 Regarding: Condition of the Water System
Witness: John Kappes

On page 18 of your testimony, you claim that contamination is more likely to be carried to the aquifer by the City’s storm water drainage system than the Water System’s leaking pipes. Please provide the basis for that opinion, as well as any documents or materials supporting that opinion.

CITY-037 Regarding: Condition of the Water System
Witness: John Kappes

On page 18 of your testimony, you claim Mountain Water estimates “that at least half of our leakage is on the customers’ service lines.”

- a. Please admit that Mountain Water has not conducted any studies on which to base that opinion.
- b. If your response is anything but an unqualified admission, please explain the basis of the opinion and provide all documents or materials supporting that opinion.

CITY-038 Regarding: Condition of the Water System
Witness: John Kappes

On page 19 of your testimony, you claim: "In our experience, we have seen leaks of over 50 gallons per minute stay underground." Please explain the basis for this claim and provide all documents or materials supporting that opinion.

CITY-039 Regarding: Qualifications of Craig Close
Witness: John Kappes

Throughout your testimony, you repeatedly assert that Mr. Close is not licensed as an engineer in Montana. (*See, e.g., Kappes Test., 20:18–19.*) Please admit that Mr. Close is qualified to offer an expert opinion on the condition of the Water System in this proceeding. If your answer is anything but an unqualified admission, please explain the basis for that opinion and provide all documents or materials supporting that opinion.

CITY-040 Regarding: Future rate increases
Witnesses: John Kappes and Leigh Jordan

- a. Has Carlyle or any of its subsidiaries (including Mountain Water) performed any analyses related to potential or anticipated rate increases for the Water System over the next ten years?
- b. If so, please describe, in detail, the evaluation, due diligence, or analysis you performed, including but not limited to your conclusions.
- c. Please produce all documents reviewed, prepared, relied upon, or supporting the evaluation, due diligence, or analysis referenced above.

CITY-041 Regarding: City's expert analysis
Witness: John Kappes

On page 27 of your testimony, you claim: "There are numerous errors in the calculations and assumptions relating to how rates would be set in Montana under Commission regulation." Please identify and describe all the purported errors and provide all documents or materials supporting that opinion.

CITY-042 Regarding: Effect of public ownership on Mountain Water employees
Witness: John Kappes

On page 28 of your testimony, you claim that "the employees will receive \$1.5 million dollars per year less than what they receive under all the private scenarios." Please describe the basis for this opinion and provide all documents and materials supporting the opinion.

CITY-043 Regarding: Developer funded projects
Witness: John Kappes

On page 28 of your testimony, you claim: "[U]nder City ownership the developers will no longer receive refunds on facilities they have paid to have installed under Commission-approved tariffs." Please describe the basis for this opinion and provide all documents and materials supporting the opinion.

CITY-044 Regarding: Valuation testimony in the condemnation action
Witness: John Kappes

On page 18 of your testimony, you allege that the district court did not allow any valuation testimony in the condemnation action. Admit that Mountain Water's hired expert, Frank Perdue, offered testimony on the alleged effect of four different purchase prices, ranging from \$75 million to \$140 million.

If your answer is anything other than an unqualified admission, please explain the basis for that answer and provide all documents and materials supporting that answer.

CITY-045 Regarding: Burden of Proof
Witness: Greg Sorensen; Page 4, lines 5-6.

Admit that Liberty, et al. has the burden of proof in this proceeding

CITY-046 Regarding: Allocated Services
Witness: Greg Sorensen; Page 5, lines 7-9.

Please explain the specific services provided to the local utility businesses by 1) Liberty Utilities Canada and 2) APUC, as well as the differences in the services provided by the two entities.

CITY-047 Regarding: Allocated Services
Witness: Greg Sorensen; Page 5, lines 19-21.

Please explain and provide documentation that APUC can provide substantial benefits to its regulated utilities that are greater than a stand-alone water utility.

CITY-048 Regarding: Allocated Services
Witness: Greg Sorensen; Page 6, lines 5-9.

For each of the following services, please quantify the annual “substantial benefits” provided to customers as a result of Liberty’s centralized corporate services:

- a. Access to capital;
- b. Accounting services;
- c. Management services;
- d. Tax services;
- e. Engineering and operational services; and
- f. Other similar services.

CITY-049 Regarding: Corporate Structure
Witness: Greg Sorensen; Page 8, lines 20-22.

Please provide support for the statement: “...the applicable regulatory commission in all ten states in which Liberty operates regulated utilities have reviewed and acknowledged the benefits of Liberty’s corporate structure.” Please provide all documents or materials supporting that opinion.

CITY-050 Regarding: Corporate Structure
Witness: Greg Sorensen

Is Mr. Sorensen claiming that Liberty’s corporate structure provides the optimum level of benefits as compared to any other corporate structure? If yes, please provide quantitative analyses supporting such claims.

CITY-051 Regarding: Fitness to Serve
Witness: Greg Sorensen; Page 9, line 1.

Please define “Fitness to Serve” and explain how public service commissions in the United States evaluate the characteristic of a utility prior to authorizing a certificate of public convenience and necessity or other franchise?

CITY-052 Regarding: Fitness to Serve
Witness: Greg Sorensen page 9, lines 7-9.

Please explain the statement: “Thus, I believe the Commission should evaluate the Mountain Water Company’s fitness to serve its customers within the organizational structure as will exist post-transaction.” I.e., please identify the benchmark or starting point, process, and criteria for referenced “fitness to serve” evaluation.

CITY-053 Regarding: Fitness to Serve

Witness: Greg Sorensen Page 9, lines 9-15.

Please admit that the Commission's analysis of Liberty's "fitness" as an operator may be different from the Company's fitness as an "owner."

CITY-054 Regarding: Troubled water systems

Witness: Greg Sorensen; Page 9, lines 17-21 and page 10, lines 1-2.

- a. Admit that regulatory commissions throughout the U.S. have asked utilities they regulate to purchase and/or operate so-called "troubled" water systems.
- b. Is it possible that the purchase and/or operation of a troubled system is a preferable, but not necessarily optimal, solution for providing service to customers of the troubled system?
- c. Please provide all documents or materials supporting your responses to (a) and (b).

CITY-055 Regarding: Benefits of the Transaction

Witness: Greg Sorensen page 10, line 5.

With reference to the so-called benefits of the transaction, admit that Mr. Kappes' duties would remain essentially the same with the difference being a change in title from President of Mountain Water Co. to Liberty's Montana president.

Please explain and quantify how this is a benefit? Please provide all documents or materials supporting that opinion.

CITY-056 Regarding: Costs

Witness: Greg Sorensen Page 10, lines 17-21, and page 11, lines 11-14.

Please explain all differences in "functional leads" from the four areas identified by Mr. Kappes in his direct testimony, page 3, lines 17-20. For each of the following four areas identified by Mr. Kappes, please identify all the specific services and annual cost of each service provided by the Liberty family of companies:

- a. Administration;
- b. Engineering;
- c. Financial Services; and
- d. Risk and Legal Services.

Please provide all documents or materials supporting your responses.

CITY-057 Regarding: RFP
Witness: Greg Sorensen Page 11, lines 17-19.

Admit that Mountain Water Co. intends to issue requests for proposals (RFP) for all services that cannot be performed by Mountain Water Company employees.

If your response is anything but an unqualified admission, please explain and provide all documents or materials supporting that opinion.

CITY-058 Regarding: Customer benefits
Witness: Greg Sorensen Page 11, line 21 and page 12, lines 1-2.

With respect to the statement: "Mountain Water's customers absolutely will benefit from Liberty's ownership and operation of the Mountain Water Company," identify and quantify the annual benefits expected. Please provide all documents or materials supporting your response.

CITY-059 Regarding: Business Plan
Witness: Greg Sorensen Page 12, lines 3-5.

Please identify and provide a copy of the business plan.

CITY-060 Regarding: System Condition
Witness: Greg Sorensen Page 13, lines 5-6.

Please produce any documents or materials supporting your statement that: "From our review, we understand that Mountain Water is well run and a functioning system."

CITY-061 Regarding: System Condition
Witness: Greg Sorensen

Is it your position that a "well run" system is one in which routine maintenance has been deferred? Please provide all documents or materials supporting your response.

CITY-062 Regarding: System Condition
Witness: Greg Sorensen

How do you distinguish between a "well run" and a not-so-well-run water system? Please provide all documents or materials supporting your response.

CITY-063 Regarding: Rates
Witness: Greg Sorensen; Page 13, lines 11-14.

Admit that historically Mountain Water Co. has not had annual base rate increases.

CITY-064 Regarding: Rates
Witness: Greg Sorensen; Page 13, lines 11-14

Please explain how and why annual rate cases are not related to this transaction.

CITY-065 Regarding: Rates
Witness: Greg Sorensen Page 13, lines 15-16.

Please provide documents and materials that support your contention that Mountain Water Company has a strategy of annual rate cases.

CITY-066 Regarding: Leakage
Witness: Greg Sorensen Page 14, lines 8-13.

Please provide copies of all cost-benefit analyses related to the issue of water loss.

CITY-067 Regarding: Leakage
Witness: Greg Sorensen; Page 14, lines 18-20.

Please provide all support for the statement: "...Mountain Water and the Commission have clearly determined it is not beneficial to customers to undertake the extensive capital intensive leak reduction plan proposed by the City."

CITY-068 Regarding: Jurisdiction
Witness: Greg Sorensen Page 15, lines 14-21.

Is it Mr. Sorenson's position that the Montana PSC does not have jurisdiction over APUC? Please provide all documents or materials supporting your response.

CITY-069 Regarding: Allocated Costs
Witness: Greg Sorensen Page 16, lines 2-3.

Admit that the testimony and supporting schedules in Mountain Water Company's last rate case establish the basis for all direct and common costs (including the reasonableness of the amounts and methods of allocating common costs) for which the Company sought recovery?

Please provide all documents or materials supporting your response.

CITY-070 Regarding: Corporate Structure
Witness: Peter Eicher; Page 5, lines 2-4.

Identify all of the areas where the proposed Liberty/Park/Mountain structure will be different from the Carlyle/Park/Mountain structure. Please provide all documents or materials supporting your response.

CITY-071 Regarding: Shared Services
Witness: Peter Eicher; Page 5, lines 7-8.

Please identify and quantify all the benefits of the “shared services model” in excess of those already experienced under the current Carlyle/Park/Mountain shared services approach. Please provide all documents or materials supporting your response.

CITY-072 Regarding: Financial
Witness: Peter Eicher; Page 5, lines 5-7.

Please quantify and document the additional benefits of capital financing stemming from Liberty’s ownership that are in excess of the benefits from the Carlyle ownership (e.g., Liberty has a lower cost of capital than Carlyle). Please provide all documents or materials supporting your response.

CITY-073 Regarding: Transfer Pricing
Witness: Peter Eicher; Page 5, lines 13-15.

Please identify all of the transfer pricing (as defined by The Economist Books, Dictionary of Economics, John Wiley & Sons, Inc., 1998 as: internal as distinct from market prices used in large organizations for transactions between semi-autonomous divisions) tools and processes used by various Canadian, U.S. federal, and state regulators.

CITY-074 Regarding: Interest Rates
Witness: Peter Eicher; Page 6, lines 8-9, and 11-12.

Please identify the interest rate and maturity of the most recent long-term bond offerings for:

- a. Liberty, and
- b. APUC.

CITY-075 Regarding: Bond Rates
Witness: Peter Eicher; Page 6, lines 12-14

Please identify the targeted Standard & Poor's bond ratings for:

- c. Liberty, and
- d. APUC.

CITY-076 Regarding: Long term ownership
Witness: Peter Eicher; Page 7, lines 6-7.

Please describe Liberty's definition of "long term ownership,"

CITY-077 Regarding: Long term ownership
Witness: Peter Eicher; Page 7, lines 6-7.

Please describe APUC's definition of "long-term ownership."

CITY-078 Regarding Long term ownership
Witness: Peter Eicher; Page 7

Please identify any and all qualifiers associated with the statement: "Liberty is in the business of buying, owning, operating and holding regulated utilities for the long run."

CITY-079 Regarding: Long term ownership
Witness: Peter Eicher; Page 7, lines 13-15.

Please provide a copy of Liberty's business plan and identify where in the plan the Company states it is a long-term owner and operator of regulated utilities.

CITY-080 Regarding: NRRI Study
Witness: Peter Eicher; Page 9, lines 9-10.

Please describe in detail why Liberty cannot provide the results from the metrics identified in the NRRI study.

CITY-081 Regarding: Historical performance
Witness: Peter Eicher; Page 9, lines 9-10.

What metrics does Liberty employ for its operating utilities to analyze their historical performance?

CITY-082 Regarding: Rates
Witness: Peter Eicher; Page 9, lines 17-19.

If Liberty does not have a need to analyze Mountain Water's financial condition on a stand-alone basis, how does Liberty know when a rate increase (or decrease) is needed?

CITY-083 Regarding: David Hayward Testimony
Witness: Peter Eicher; Page 10, lines 1-3.

Please admit:

- a. The statements contained in Mr. Hayward's testimony on page 38, lines 8-15 were not the statements contained in Algonquin/Liberty's PowerPoint presentations.
- b. The Company has revised the statements from their PowerPoint presentations. If the statements have been revised, please provide copies of the documents showing the revisions.
- c. If your response to (a) and (b) is anything other than an unqualified admission, please provide all documents or materials supporting your response.

CITY-084 Regarding: Financial strength
Witness: Peter Eicher; Page 10, lines 13-15.

Please provide copies of all documents and analyses that lead Liberty/APUC's management to conclude that Mountain Water was and is a sound company.

CITY-085 Regarding: Ownership opportunities
Witness: Peter Eicher; Page 10, lines 16-22, and page 11, lines 1-3.

Please identify the publicly-owned and privately-owned water utilities that Liberty considers "opportunities" in Montana.

CITY-086 Regarding: Capital Investment
Witness: Peter Eicher; Page 11, lines 20-21.

Please admit that under the assumption that utilities in two states (e.g., California and Montana) have the same capital investment requirements and limited access to capital the utilities in the state that historically or prospectively provides the higher return on investment does not receive more capital. Please explain the answer and provide all documents or materials supporting your response.

CITY-087 Regarding: Capital Investment
Witness: Peter Eicher; Page 13, lines 15-17.

Admit Mountain Water Company's future cost of capital is a factor in evaluating the impact on the Company's customers and thus is relevant in the context of Liberty's request for the PSC to approve the proposed merger.

If your answer is anything but an unqualified response, please provide all documents or materials supporting your response.

CITY-088 Regarding: Montana PSC
Witness: Peter Eicher; Page 16, lines 3-6.

Admit the size, scope of regulation (e.g., number and size of utilities), and organization of the regulatory commissions in which the Liberty-affiliated companies operate is different than the Montana Public Service Commission.

If your answer is anything but an unqualified admission, please provide all documents or materials supporting your response.

CITY-089 Regarding: Cost of Capital
Witness: Leigh Jordan; Page 13, lines 15-19.

With respect to determining the cost of capital, please provide a simple example yielding "the after-tax cost of capital."

CITY-090 Regarding: Rates
Witness: Leigh Jordan; Page 14, lines 8-12.

Are you suggesting that the Commission should wait until after Mountain files a general rate case (assuming that the proposed transaction is approved) and then determine if the resulting rates are just and reasonable? Do you agree that if this were the case, this entire application would be moot and the only issue before the Commission would be the new rates? If no, please explain why not and provide all documents or materials supporting your response.

CITY-091 Regarding: Cost of Capital
Witness: Leigh Jordan; Page 14, line 23 and page 15, lines 1-2.

Admit that the PSC's approach in determining a utility's cost of capital is to incorporate an adjustment for non-utility financing?

If your answer is anything but an unqualified admission, please provide all documents or materials supporting your response.

CITY-092 Regarding: Cost of Capital
Witness: Leigh Jordan; Page 24, lines 10-17.

Please explain how “better access to reasonably priced capital” is not a benefit. Please provide all documents or materials supporting your response.

CITY-093 Regarding: Ring-fencing
Witness: Leigh Jordan; Page 25, lines 5-11.

If ring-fencing measures were relevant in the Carlyle case,

- a. How are they not relevant in this proceeding?
- b. Admit that ring-fencing measure could have an impact on a utility’s cost of service?
- c. Please provide all documents or materials supporting your response to (a) and (b).

CITY-094 Regarding: Ring-fencing
Witness: Leigh Jordan; Page 25.

Is your position that the PSC’s ring-fencing provisions have been effective? Please provide all documents or materials supporting your response.

CITY-095 Regarding: Condition of the water system
Witness: Leigh Jordan

When did the public first become aware of the details related to the condition of Mountain’s operating assets as noted in Mr. Close’s testimony? Please provide all documents or materials supporting your response.

CITY-096 Regarding: Regulatory Approval
Witness: Leigh Jordan

Are you aware that other utility regulators have provided the following restrictions on affiliate transactions: (a) prohibiting such transactions, (b) allowing the transactions but excluding the profits associated with the transactions, (c) unlike ordinary expenses of a regulated company, expenses paid to an affiliate do not carry a presumption of reasonableness; thus, the burden is on the utility to prove their reasonableness? Please provide all documents or materials supporting your response.

CITY-097 Regarding: Employee loan(s)
Witness: Leigh Jordan; Page 28, lines 3-5.

Could the funds loaned to employees also have been used to invest in the Company's infrastructure? If not, why not?

CITY-098 Regarding: Employee loan(s)
Witness: Leigh Jordan; Page 28, lines 3-5.

At the time the 3% loans were made to the employees, what were the prevailing local interest rates for unsecured personal loans?

CITY-099 Regarding: Revenue
Witness: Leigh Jordan; Page 28

Please identify the specific PSC rules, regulations, and case law that place a ceiling on a utility's: (a) revenues generated from non-utility activities, (b) non-utility expenses, and (c) non-utility investments.

CITY-100 Regarding: Audited transactions
Witness: Leigh Jordan; Page 29, lines 8-13.

Please provide copies of the written results of the audited transactions cited in your testimony. Where in the public domain can these copies be found?

CITY-101 Regarding: Rates
Witness: Leigh Jordan; Page 29, lines 14-22, and page 30, lines 1-19.


Please explain how differences in rates between York Water and Mountain Water results in an organizational structure as proposed by the applicants that is preferable to the organizational structure of York?

CITY-102 Regarding: Organizational Structure
Witness: Leigh Jordan; Page 31, lines 1-13.

Please explain how the organizational structure of the proposed new owner (i.e., the Liberty family) that results in: (a) various affiliate transactions, (b) auditing and monitoring challenges of the regulators—both foreign and domestic, and (c) vast differences in the cost of capital between the parent and the operating utilities is "irrelevant to this proceeding."

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by mail and email upon the following counsel of record at their addresses this 18th day of December 2015:

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